

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION**

STATE OF TENNESSEE DEPARTMENT)
OF CHILDRENS SERVICES,)

Plaintiff,)

v.)

LATRESE CLEAVES-FARRIS, KEVIN)
GIBSON, JERRY KING, SR., DESZI RAE)
FARRIS, and DERRICK WEBBER,)

Defendants.)

No. 2:22-cv-02197-TLP-tmp

ORDER ADOPTING REPORT AND RECOMMENDATION AND DISMISSING CASE

Latrese Cleaves-Farris tried to remove her so-called “Counter-Petition/Complaint” against the State of Tennessee Department of Children’s Services (“DCS”) to this Court in March 2022. (ECF Nos. 1 & 7.) Cleaves-Farris appears to be a defendant in an ongoing state court proceeding about the termination of her parental rights. (*Id.*) And here she tries to bring only her state court counterclaims to federal court without attaching the complaint filed in that state court case. (*See id.*) That is not how it works.

Under Administrative Order 2013-05, the Court referred this case to Magistrate Judge Tu M. Pham (“Judge Pham”) for management of all pretrial matters. About two months later, Judge Pham ordered Cleaves-Farris to show why the case should not be dismissed for lack of subject matter jurisdiction. (*See* ECF No. 8.) Cleaves-Farris never responded even after Judge Pham extended her time to do so. (*See* ECF No. 10.) Judge Pham then filed a Report and

Recommendation (“R&R”), recommending that the Court dismiss Cleaves-Farris’s complaint for lack of subject matter jurisdiction. (ECF No. 11.)

A magistrate judge may submit to a district court judge a report and recommendation (R&R) for the determination of certain pretrial matters, including dismissal of an action for lack of subject matter jurisdiction. 28 U.S.C. § 636(b)(1)(A)–(B); *see also Answers in Genesis of Ky., Inc. v. Creation Ministries Int’l., Ltd.*, 556 F.3d 459, 465 (6th Cir. 2009) (“[F]ederal courts have a duty to consider their subject matter jurisdiction in regard to every case and may raise the issue sua sponte.”). And “[w]ithin 14 days after being served with a copy of the recommended disposition, a party may serve and file specific written objections to the proposed findings and recommendations.” Fed. R. Civ. P. 72(b)(2); *see also* 28 U.S.C. § 636(b)(1). If a party does not object, then a district court reviews an R&R for clear error. Fed. R. Civ. P. 72(b) advisory committee notes. And the district court “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1)(C).

Like Judge Pham, this Court finds that it does not have subject matter jurisdiction over Cleaves-Farris’s counterclaims. Cleaves-Farris raises constitutional claims under the Fourteenth Amendment’s Due Process and Equal Protection Clauses. (ECF No. 1-1 at PageID 6.) True enough, those claims can give federal courts subject matter jurisdiction under 28 U.S.C. § 1446. But this Court agrees with Judge Pham that it lacks subject matter jurisdiction over “domestic relations disputes involving child custody or divorce.” *Partridge v. Ohio*, 79 F. App’x 844, 845 (6th Cir. 2003); *see also Alexander v. Rosen*, 804 F.3d 1203, 1205 (6th Cir. 2015) (explaining the “domestic relations exception” to federal courts’ subject matter jurisdiction).

Judge Pham notes two other issues. First, “federal courts typically abstain from intervening in this type of ongoing state proceeding.” (ECF No. 11 at PageID 28 (citing *Lance v.*

Locke, No. 3:12-cv-757, 2012 WL 4192893, at *4 (M.D. Tenn. Sept. 18, 2012)). And second, Cleaves-Farris's Notice of Removal appears to be defective. (*Id.*) This Court agrees with Judge Pham on both points. What is more, Cleaves-Farris has filed no objections to Judge Pham's R&R, and the deadline to do so has now passed.

The Court has reviewed the R&R for clear error and finds none. The Court therefore **ADOPTS** Judge Pham's R&R, and it **DISMISSES** the case.

SO ORDERED, this 16th day of November, 2022.

s/ Thomas L. Parker

THOMAS L. PARKER
UNITED STATES DISTRICT JUDGE